



**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

**DEPARTMENT OF THE TREASURY**

**INTERNAL REVENUE SERVICE**

**TE/GE: EO Examination**

**1100 Commerce**

**Dallas, Texas 75242**

**501.03-00**

**Date: July 14, 2010**

**Number: 201040023**

**Release Date: 10/8/2010**

**LEGEND**

**ORG = Organization name**

**XX = Date Address = address**

**ORG**

**ADDRESS**

**Employer Identification Number:**

**Person to Contact/ID Number:**

**Contact Numbers:**

**Voice:**

**Fax:**

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**Dear :**

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective October 1, 20XX.

Our adverse determination was made for the following reasons:

Internal Revenue Code Section 6001 requires organizations exempt from tax to keep such records and render such statements as are required by such rules and regulations as the Secretary may prescribe. Treasury Regulations section 1.6033-2 (h)(2) requires organizations exempt from tax to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into the organization's exempt status.

You failed to keep the required records and you did not file annual information returns.

You failed to meet the requirements of IRC section 501(c)(3) and Treas. Reg. section 1.501 (c)(3) -1(d) in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code. You are required to file Federal income tax returns on Form 1120. Those returns should be filed with the appropriate Service Center.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit of declaratory judgment in the United States Tax Court, the United States Claims Court or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

You also have the right to contact the office of the Taxpayer Advocate. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate office located nearest you by calling (313) 628-3670 or by writing to:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations or extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate, can, however, see that a tax matter, that may not have been resolved through normal channels, gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions in regards to this matter please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

Nanette M. Downing  
Director, EO Examinations

**Internal Revenue Service**

**Department of the Treasury**  
985 Michigan Avenue; 10th floor  
Detroit, MI 48226

Date: July 8, 2010

ORG  
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

**Certified Mail - Return Receipt Requested**

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Sunita Lough  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG                      EIN: EIN		<b>Year/Period Ended</b> September 30, 20XX September 30, 20XX September 30, 20XX

**LEGEND**

ORG = Organization name      XX = Date      State = state

**Issue:**

Whether the exempt organization referenced above qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code.

**Facts:**

ORG Incorporated, hereafter referred to as ORG, was organized as a non-profit corporation under the laws of the State of State by filing Articles of Incorporation with the state on January 29, 19XX. The purpose of the organization, as stated in its articles, is "To assist in locating missing children and other such activities allowable for a non-profit corporation, in connection with the foregoing." The organization's activities were to be funded through donations and grant monies received from the general public.

ORG was granted tax exemption, as an organization described in I.R.C. sections 501(c)(3) and 170(b)(1)(A)(vi), by the Internal Revenue Service in October of 19XX.

The organization was selected for examination based on information obtained from the State of State, indicating that this organization was regularly conducting gaming activities but not filing a Form 990 or other related returns, as may be required.

During course of examination, it was concluded that ORG failed to meet its filing requirements for both Forms 990 and 990-T for tax years ending September 30, 20XX, 20XX and 20XX. As a result, ORG was requested to file all required returns and supporting documentation for the tax years referenced above, however, the organization it failed to properly comply with this request during the timeframe provided (See Attached).

In response, the Internal Revenue Service issued a Notice and Demand letter, dated March 2, 20XX, requesting ORG file its Forms 990 for the tax periods in question and also advising of the potential for revocation of exempt status and imposition of penalties (See Attached). However, the organization also failed to comply with the requirements set forth in this letter.

**Law:**

**I.R.C. Section 6001** provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

**I.R.C. Section 6033(a)(1)** provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of

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gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

**Treas. Reg. 1.6001-1(a)** in conjunction with **I.R.C. section 1.6001-1(c)** provides that every organization exempt from tax under section 501(a) of the Code and subject to the tax imposed by section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033.

**Treas. Reg. 1.6001-1(e)** states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

**Treas. Reg. 1.6033-1(h)(2)** provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

**Rev. Rul. 59-95, 1959-1 C.B. 627** concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

### **Taxpayer's Position**

The organization failed to submit an official protest or respond in any manner to the Service's proposed revocation of its exempt status within the required 30 day timeframe.

### **Government's Position:**

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain

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reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

**Conclusion:**

It is the IRS's position that the organization failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. Accordingly, the organization's exempt status is revoked effective October 1, 20XX. The organization is required to file Form 1120, U.S. Corporation Income Tax Return, as required by IRC 6501(g), for the taxable period ending September 30, 20XX and for each year thereafter.